

Application No.: 09/767,292

Docket No.: Docket No.: 00-VE04.75 A CIP

REMARKS

The rejection of all claims under 35 USC §103(a) is respectfully traversed, the applied Curry et al. patent, U.S. Patent No. 6,233,234 (hereinafter "Curry"), being unavailable as prior art pursuant to 35 USC §103(c). In particular, the Curry patent was filed June 3, 1997 but did not issue until May 15, 2001, almost four months after the January 18, 2001 filing date of the present application and almost a full year after the June 30, 2000 filing date of U.S. Patent Application No. 09/607,930 of which the present application is a continuation-in-part (CIP).

Although not indicated by the Examiner, since the present application was filed prior to issuance of the Curry patent, it appears that the Examiner considers the Curry patent to be qualified as prior art under 35 USC §102(e), (f) or (g). However, since subject matter and claimed inventions of both the Curry patent and that of the present application were, at the time the respective inventions were made, owned by the same [juridical] person (i.e., corporation) or subject to an obligation of assignment to the same person, the Curry patent may not preclude patentability under 35 USC §103.

At the time the Curry application was filed, its inventors, James Curry and Robert Farris, were employed by, under an obligation to and did assign their interests in and to the application to Bell Atlantic Network Services, Inc., a wholly owned subsidiary of Bell Atlantic Corporation. The assignment was recorded by the Assignment Branch of the USPTO on the June 3, 1997 filing date of the Curry application at reel 008789, frames 0435-0437. On June 30, 2000, Bell Atlantic Corporation and GTE completed a merger under which GTE became a wholly-owned subsidiary of Bell Atlantic Corporation. With the closing of the Merger, the combined company began doing business as Verizon. See United States Securities And Exchange Commission Form 10-Q For Quarter Ended June 30, 2000 submitted by Bell Atlantic Corporation (d/b/a Verizon Communications). At or about that time, Bell Atlantic Network Services, Inc. was renamed Verizon Services Corp.

The Inventors of the present application, Messrs. Doskow and Hetz and Ms. Jarosinski, at the time of their invention were employed by the same corporation now known as Verizon. Thereby, they were under an obligation to then assign, and later did assign, their respective

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interests in and to the present application to Verizon Services Corp., as recorded by the Assignment Branch on August 6, 2001 at Reel 012311, Frames 0623-0626. That is, the inventors of both applications were, at the time of their respective inventions, employed by the same corporation, now known as Verizon Services Corp., and previously known as Bell Atlantic Network Services, a wholly owned subsidiary of Bell Atlantic Corporation which became Verizon Communications.

In conclusion, pursuant to 35 USC §103(c), the Curry patent is not prior art and may not preclude patentability of the present application. Withdrawal of the outstanding rejections and an early Notification of Allowance are respectfully solicited.

Applicants believe no fee is due with this response. However, if an extension of time under 37 C.F.R. §1.136 is required the petition therefor is hereby made, the fee for which should be charged to our Deposit Account No. 07-2347. Further, if any other or additional fee is due, please charge our Deposit Account No. 07-2347 from which the undersigned is authorized to draw and please credit any excess fees to such deposit account.

Respectfully submitted,

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